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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/799,115 | 03/11/2004 | Brian J. Brozell | 18209 USA | 8232 |
| 27081 | 7590 | 01/10/2008 | | |
| OWENS-ILLINOIS, INC. ONE MICHAEL OWENS WAY, THREE O-I PLAZA PERRYSBURG, OH 43551-2999 | | | EXAMINER SMALLEY, JAMES N | |
| | | | ART UNIT 3781 | PAPER NUMBER |
| | | | MAIL DATE 01/10/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/799,115

Applicant(s)

BROZELL, BRIAN J.

Examiner

James N. Smalley

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-8 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-8 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 4-8 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 limits the external thread on the container and the internal thread in the closure as being "continuous". It is not clear what the exact metes and bounds of the term comprise. Clearly, no thread can be infinite, so it must be of a finite length. Also confusing the term is the fact that the claims call for "as least one" of each thread. Therefore, it is not clear how short/long, or, the total number of threads disclosed, are sufficient to meet the claimed limitation.

Claim 15 is indefinite because it depends from canceled claim 3. It is assumed claim 15 depends from claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiss et al. US 4,032,028 in view of Landen US 3,951,289.

Reiss '028 teaches a threaded closure cap (20) comprising a base wall (24), a skirt (26), an internal thread (30), an internal stop lug (38, 42) spaced from thread (36), and with a stop lug (44) which engages with an external container neck projection (34) located opposite the open end with respect to the threads and is also spaced from thread (46), to prevent advancement or removal of a closure cap. The

neck thread (46) and closure thread (36, 40) are continuous because it has a starting point, and end point, and is continuous between these two points. Seal element (52) functions as a biasing element but does not comprise an annular wall.

Landen '289, in the embodiment of figures 4-5, teaches an annular wall/outer surface (20') with tapered portion/angled surface (19') to seal against a container rim taper (18) which also serves to bias the locking lugs (15) into engagement with container lugs (13) in order to provide an axially-upwards biasing force and engage the locking cams and prevent removal by a child. By forming the wall integral with the closure, as opposed to providing a seal formed of a separate material such as the sealing disc of Reiss '028, the closure can be molded in one step without an additional process which would make manufacturing the closure more efficient.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container neck opening interior profile, as well as the closure sealing means, of Reiss '028, providing the conical surface on the neck interior wall, and providing the integral annular wall, all taught by Landen '289, motivated by the benefit of forming the closure in a more efficient process.

Regarding claims 3 and 8, Reiss '028 fails to teach the container projection having a tangential leg portion which axially traps the closure internal locking lug (claim 3) and whereby the projection and the locking lug have cooperating cam surfaces (claim 8).

Landen '289 teaches container neck projection having tangential projection (21) and cam surface (23) while the closure lugs (22) have corresponding cam surfaces which engage the neck projection and are axially held in the pocket formed by (21). This provides for a more secure engagement between the container projection and the closure lug.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container neck projection (34) and closure lug (44) of Reiss '028, providing the projection and lug taught by Landen '289, motivated by the benefit of a more secure engagement between the lugs, and thus a greater chance of preventing access into the container by a child.

Response to Arguments

5. Applicant's arguments filed 06 October 2006 have been fully considered but they are not persuasive.

a) Applicant argues the combination of Reiss in view of Landen fails to teach continuous threads, and stop elements spaced from the threads.

Examiner notes container neck stop lug (34) is spaced from container neck thread (46), and closure stop lugs (38, 42, 44) are spaced from threads (36, 40).

Allowable Subject Matter

6. Claims 4-8 and 15 are objected to as being allowable if rewritten to include all limitations of independent claim 1, and to correct the rejections made in view of 35 U.S.C. 112, 2nd paragraph listed above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on Monday - Friday 10 am - 7 pm.

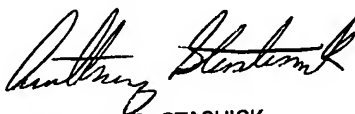
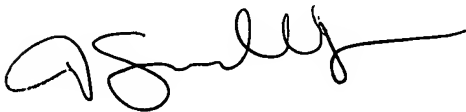
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jns



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